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H.167

Introduced by Representatives Grad of Moretown, Burditt of West Rutland,  
Colburn of Burlington, and Conquest of Newbury

Referred to Committee on

Date:

Subject: Health; regulated drugs

Statement of purpose of bill as introduced: This bill proposes to amend the  
illegally possessed amount of cocaine, heroin, depressant, stimulant, and  
narcotic drugs that distinguishes between misdemeanor and felony crimes.

An act relating to ~~establishing drug possession thresholds to distinguish~~  
~~misdemeanor and felony crimes~~ *alternative approaches to addressing low-*  
*level illicit drug use*

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. 18 V.S.A. § 4231 is amended to read:~~

§ 4231. COCAINE

(a) Possession.

(1) A person knowingly and unlawfully possessing cocaine shall be  
imprisoned not more than one year or fined not more than \$2,000.00, or both.

(2) A person knowingly and unlawfully possessing cocaine in an  
amount consisting of ~~2.5~~ more than 3.5 grams ~~or more~~ of one or more

~~preparations, compounds, mixtures, or substances containing cocaine shall be~~

1 ~~imprisoned not more than five years or fined not more than \$100,000.00, or~~  
2 ~~both.~~

3 (2) A person knowingly and unlawfully possessing cocaine in an  
4 amount consisting of more than one ounce ~~or more~~ of one or more  
5 preparations, compounds, mixtures, or substances containing cocaine shall be  
6 imprisoned not more than 10 years or fined not more than \$250,000.00, or  
7 both.

8 \* \* \*

9 Sec. 2 18 V.S.A. § 4233 is amended to read:

10 § 4233. HEROIN

11 (a) Possession.

12 (1) A person knowingly and unlawfully possessing heroin shall be  
13 imprisoned not more than one year or fined not more than \$2,000.00, or both.

14 (2) A person knowingly and unlawfully possessing heroin in an amount  
15 consisting of ~~200 milligrams or more~~ than one gram of one or more  
16 preparations, compounds, mixtures, or substances containing heroin shall be  
17 imprisoned not more than five years or fined not more than \$100,000.00, or  
18 both.

19 (3) A person knowingly and unlawfully possessing heroin in an amount  
20 consisting of ~~one gram or more~~ than two grams of one or more preparations,  
21 ~~compounds, mixtures or substances containing heroin shall be imprisoned not~~

1 ~~more than 10 years or fined not more than \$250,000.00, or both~~

2 (4) A person knowingly and unlawfully possessing heroin in an amount  
3 consisting of ~~two~~ more than five grams ~~or more~~ of one or more preparations,  
4 compounds, mixtures, or substances containing heroin shall be imprisoned not  
5 more than 20 years or fined not more than \$1,000,000.00, or both.

6 \* \* \*

7 Sec. 3. 18 V.S.A. § 42~~34~~ is amended to read:

8 § 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

9 (a) Possession.

10 (1) A person knowingly and unlawfully possessing a depressant,  
11 stimulant, or narcotic drug, other than heroin or cocaine, shall be imprisoned  
12 not more than one year or fined not more than \$2,000.00, or both.

13 (2) A person knowingly and unlawfully possessing a depressant,  
14 stimulant, or narcotic drug, other than heroin or cocaine, consisting of ~~400~~ 50  
15 times a benchmark unlawful dosage or its equivalent as determined by the  
16 ~~board of health~~ Board of Health by rule shall be imprisoned not more than five  
17 years or fined not more than \$25,000.00, or both.

18 (3) A person knowingly and unlawfully possessing a depressant,  
19 stimulant, or narcotic drug, other than heroin or cocaine, consisting of ~~4,000~~  
20 100 times a benchmark unlawful dosage or its equivalent as determined by the  
21 ~~board of health~~ Board of Health by rule shall be imprisoned not more than

1 ~~10 years or fined not more than \$100,000.00, or both.~~

2 (4) A person knowingly and unlawfully possessing a depressant,  
3 stimulant, or narcotic drug, other than heroin or cocaine, consisting of 10,000  
4 1,000 times a benchmark unlawful dosage or its equivalent as determined by  
5 the ~~board of health~~ Board of Health by rule shall be imprisoned not more than  
6 20 years or fined not more than \$500,000.00, or both.

7 \* \* \*

8 Sec. 4. EFFECTIVE DATE

9 ~~This act shall take effect on July 1, 2017.~~

*Sec. 1. LEGISLATIVE FINDINGS*

*The General Assembly finds:*

*(1) According to Michael Botticelli, former Director of the Office of National Drug Control Policy, the National Drug Control Strategy recommends treating “addiction as a public health issue, not a crime.” Further, the strategy “rejects the notion that we can arrest and incarcerate our way out of the nation’s drug problem.”*

*(2) Vermont Chief Justice Paul Reiber has declared that “the classic approach of ‘tough on crime’ is not working in [the] area of drug policy” and that treatment-based models are proving to be a more effective approach for dealing with crime associated with substance abuse.*

*(3) A felony conviction record is a significant impediment to gaining*

and maintaining employment and housing, yet we know that stable employment and housing are an essential element to recovery from substance abuse and desistance of criminal activity that often accompanies addiction.

(4) In a 2014 study by the PEW Research Center, 67 percent of people polled said government should focus more on providing treatment to people who use illicit drugs and less on punishment. The Center later reported that states are leading the way in reforming drug laws to reflect this opinion: State-level actions have included lowering penalties for possession and use of illegal drugs, shortening mandatory minimums or curbing their applicability, removing automatic sentence enhancements, and establishing or extending the jurisdiction of drug courts and other alternatives to the regular criminal justice system.

(5) Vermont must look at alternative approaches to the traditional criminal justice model for addressing low-level illicit drug use if it is going to reduce the effects of addiction and addiction-related crime in this State.

## *Sec. 2. STUDY*

(a) The Office of Legislative Council shall examine the issue of a public health approach to low-level possession and use of illicit drugs in Vermont as an alternative to the traditional criminal justice model, looking to trends both nationally and internationally, with a goal of providing policymakers a range of approaches to consider during the 2018 legislative session.

(b) The Office of Legislative Council shall report its findings to the General Assembly on or before November 15, 2017.

*Sec. 3. EFFECTIVE DATE*

This act shall take effect on July 1, 2017.